

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**In re: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
LITIGATION**

THIS DOCUMENT RELATES TO

State of Nevada v. Abbott Labs., Inc. et al.,

Case No. CV02-00260 (Nevada I),

State of Nevada v. American Home Products, et al.,)

CA No. 02-CV-12086-PBS (Nevada II), and)

State of Montana v. Abbott Labs., Inc., et al.

CA No. 02-CV-12084-PBS

MDL NO. 1456

Civil Action No. 01-12257-PBS

Judge Patti B. Saris

Chief Magistrate Judge Marianne B.
Bowler

**DEFENDANTS' MOTION FOR LEAVE TO FILE REPLY MEMORANDUM IN
SUPPORT OF MOTION FOR EXPEDITED BRIEFING SCHEDULE AND ORAL
ARGUMENT ON DEFENDANTS' MOTION FOR AN ORDER HOLDING PLAINTIFFS
IN CONTEMPT, FOR PRESERVATION OF POTENTIALLY RELEVANT
DOCUMENTS, AND FOR AN ACCOUNTING OF SPOILIATED DOCUMENTS**

Defendants hereby move the Court for leave file the attached Reply Memorandum In Support Of Motion For Expedited Briefing Schedule And Oral Argument On Defendants' Motion For An Order Holding Plaintiffs In Contempt, For Preservation Of Potentially Relevant Documents, And For An Accounting Of Spoliated Documents. Defendants respectfully submit that a short brief is necessary to correct several misstatements made in Plaintiffs' Opposition.

Certification Pursuant to Local Rules 7.1 and 37.1

Pursuant to Local Rules 7.1(a)(2) and 37.1 of this Court, the undersigned counsel certifies that counsel for Defendants conferred unsuccessfully with Plaintiffs' counsel in an effort to narrow or resolve the issues presented by this motion.

Respectfully submitted on behalf of all
Defendants in the Nevada and Montana actions,

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December 12, 2005

Certificate of Service

I hereby certify that on December 12, 2005, I caused a true and correct copy of Defendants' Motion for Leave to File Reply Memorandum in Support of Motion for Expedited

Briefing Schedule And Oral Argument to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 in MDL No. 1456.

/s/ Jason R. Litow